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9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No.

2009-242

13 JONNA L. BISWELL,
a.k.a. JONNA LISA BISWELL
12362 Yorba Avenue
14 Chino, CA 91710

A C C U S A T I O N

15 Registered Nurse License No. 349231

16 Respondent.
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18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
22 ("Board"), Department of Consumer Affairs.

23 2. On or about September 30, 1982, the Board issued Registered Nurse
24 License Number 349231 to Jonna L. Biswell, also known as Jonna Lisa Biswell ("Respondent").
25 Respondent's registered nurse license was in full force and effect at all times relevant to the
26 charges brought herein and will expire on February 28, 2010, unless renewed.

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1 name and license number of a registered nurse who is terminated for any reason,
2 other than successful completion, shall be reported to the board's enforcement
program.

3 (b) If a committee determines that a registered nurse, who is denied
4 admission into the program or terminated from the program, presents a threat to
the public or his or her own health and safety, the committee shall report the name
5 and license number, along with a copy of all diversion records for that registered
nurse, to the board's enforcement program. The board may use any of the records
6 it receives under this subdivision in any disciplinary proceeding.

7 8. Code section 4060 states, in pertinent part:

8 No person shall possess any controlled substance, except that furnished to
a person upon the prescription of a physician, dentist, podiatrist, optometrist,
9 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
10 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant
pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or
11 a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause
(iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.
12 This section shall not apply to the possession of any controlled substance by a
manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,
13 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse
practitioner, or physician assistant, when in stock in containers correctly
14 labeled with the name and address of the supplier or producer . . .

15 9. Health and Safety Code section 11170 states that no person shall
16 prescribe, administer, or furnish a controlled substance for himself.

17 10. Health and Safety Code section 11173, subdivision (a), states, in pertinent
18 part, that "[n]o person shall obtain or attempt to obtain controlled substances, or procure or
19 attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
20 deceit, misrepresentation, or subterfuge . . ."

21 COST RECOVERY

22 11. Code section 125.3 provides, in pertinent part, that the Board may request
23 the administrative law judge to direct a licentiate found to have committed a violation or
24 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
25 and enforcement of the case.

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1 **CONTROLLED SUBSTANCES AT ISSUE**

2 12. "Vicodin" is a compound consisting of 5 mg hydrocodone bitartrate, also
3 known as dihydrocodeinone, and 500 mg acetaminophen per tablet, and is a Schedule III
4 controlled substance as designated by Health and Safety Code section 11056, subdivision (e)(4).

5 13. "Dilaudid", a brand of hydromorphone, is a Schedule II controlled
6 substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(K).

7 14. "Xanax", a brand of alprazolam, is a Schedule IV controlled substance as
8 designated by Health and Safety Code section 11057, subdivision (d)(1).

9 15. "Phentermine" is a Schedule IV controlled substance as designated by
10 Health and Safety Code section 11057, subdivision (f)(4).

11 **RESPONDENT'S TERMINATION FROM BOARD'S**

12 **DIVERSION PROGRAM AS A PUBLIC SAFETY RISK**

13 16. On or about March 27, 2007, Respondent was self-enrolled in the Board's
14 Diversion Program. Respondent admitted to abusing alcohol and controlled substances,
15 including Vicodin and opiates, and diverting controlled substances from her place of
16 employment, Pomona Valley Hospital, Pomona, California. Respondent admitted diverting
17 Vicodin up to five days per week, and injecting Dilaudid without a prescription an estimated
18 forty times over a six month period. Respondent's diversion of controlled substances continued
19 until an administrative audit was performed by the hospital on or about March 22, 2007, when
20 Respondent was placed on a leave of absence by the hospital. Respondent also admitted to
21 abusing alcohol through March 2007.

22 17. At Respondent's March 27, 2008, Diversion Evaluation Committee
23 ("DEC") meeting, Respondent was mandated to enter residential inpatient treatment, activate her
24 Compass Vision account, be seen by a psychiatrist for a medication evaluation, and have 100%
25 compliance with the Diversion Program or she would be terminated from the program as a public
26 safety risk. On April 21, 2008, Respondent tested positive for amphetamines (phentermine). At
27 the September 25, 2008, DEC meeting, the DEC was concerned that Respondent had not tested

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1 since July 2008, and had several chances to be compliant. On or about September 25, 2008, the
2 DEC terminated Respondent from the Diversion Program as a public safety risk.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Diversion, Possession, and Self-Administration of Controlled Substances)**

5 18. Respondent is subject to disciplinary action pursuant to Code section
6 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section
7 2762, subdivision (a), in that while licensed as a registered nurse, Respondent diverted,
8 possessed, and/or, self administered controlled substances as follows:

9 **Diversion of Controlled Substances:**

10 a. In and between October 2006 and March 2007, while employed as a
11 registered nurse in the emergency room at Pomona Valley Hospital, Pomona, California,
12 Respondent obtained controlled substances, including, but not limited to, Vicodin and Dilaudid,
13 by fraud, deceit, misrepresentation, or subterfuge, in violation of Health and Safety Code section
14 11173, subdivision (a), as follows: As discussed in paragraphs 16 and 17, above, which are
15 herein incorporated by reference as set forth in whole, in or about October 2006, Respondent
16 began diverting Vicodin, and various injectables, including Dilaudid, from the Pomona Valley
17 Hospital. Respondent continued diverting the drugs until she was put on a leave of absence in
18 March 2007.

19 **Possession/Obtaining Controlled Substances:**

20 b. In and between October 2006 and March 2007 Respondent obtained
21 and/or possessed unknown quantities of controlled substances, including, but not limited to,
22 Vicodin and Dilaudid, without valid prescriptions in violation of Code section 4060 and Health
23 and Safety Code section 11173, subdivision (a).

24 **Self-Administration of Controlled Substances:**

25 c. In and between October 2006 and March 2007 Respondent admitted self-
26 administering controlled substances, including, Vicodin and Dilaudid without a prescription.

27 d. On or about April 21, 2008, while enrolled in the Board's diversion
28 program, Respondent tested positive for using phentermine.

1 SECOND CAUSE FOR DISCIPLINE

2 (Use of Controlled Substances and Alcoholic Beverages to an Extent
3 or in a Manner Dangerous or Injurious to Oneself or Others)


4 19. Respondent is subject to disciplinary action pursuant to Code section
5 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section
6 2762, subdivision (b), in that while licensed as a registered nurse, Respondent used controlled
7 substances, including, but not limited to, Vicodin, Dilaudid and Xanax, and consumed alcoholic
8 beverages to an extent or in a manner dangerous or injurious to herself and/or others, as set forth
9 in paragraphs 16 through 18, above, which are herein incorporated by reference as set forth in
10 whole. Further, during the course of diversion, Respondent admitted abusing alcohol for up to
11 ten years through March 2007, and at one point, consuming as much as one pint of tequila per
12 day for a period of five years.

13 PRAYER

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein
15 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 16 1. Revoking or suspending Registered Nurse License Number 349231,
17 issued to Jonna L. Biswell, also known as Jonna Lisa Biswell;
18 2. Ordering Jonna L. Biswell, also known as Jonna Lisa Biswell, to pay the
19 Board of Registered Nursing the reasonable costs of the investigation and enforcement of this
20 case, pursuant to Business and Professions Code section 125.3;
21 3. Taking such other and further action as deemed necessary and proper.

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23 DATED: 4/7/09.

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25 RUTH ANN TERRY, M.P.H., R.N.
26 Executive Officer
27 Board of Registered Nursing
28 Department of Consumer Affairs
State of California
Complainant